

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY**

Regular Meeting – December 7, 2011

*******Draft Document – Subject to Commission Review*******

CALL TO ORDER: Chairman Savaria called the Meeting to order at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

ESTABLISHMENT OF QUORUM:

Present: Regular Members Ron Savaria (Chairman), Michael Koczera, John Malin, Richard Osborn, Michael Sawka, Robert Slate, and Alternate Member Kathryn Roloff. Alternate Member Alan Baker is no longer a member of this Commission due to his election to the Board of Selectmen.

Unable to Attend: All Members were present.

Guests: Selectman Richard Pippin (Inland/Wetlands Liaison); Selectman Baker, Selectwoman Nelson; Kathy Pippin, Board of Finance.

Chairman Savaria noted the establishment of a quorum with six (6) Regular and one (1) Alternate Member as noted above. All Regular members will sit in on votes this evening. If, for any reason, a Regular Member must step down from service, Alternate Member Roloff will serve as noted at each Agenda Item.

Also in attendance was Wetlands Agent/Zoning Enforcement Officer Robin Newton.

AGENDA ADDITIONS:

MOTION: To ACCEPT the Agenda Addition of Application #17-2011 All American Products Corporation: Request to fill and regrade portion of cornfield at 245 South Main Street. This property is located 1,500+/- feet south of Abbe Road. Assessor's Map 12, Block 23, Lot 59.

Osborn moved/Slate seconded/VOTE: In Favor: Unanimous

APPROVAL OF MINUTES/October 5, 2011:

Lengthy discussion occurred regarding the purpose, content, interpretation of Meeting discussion, and presentation of the Meeting Minutes.

MOTION: To APPROVE the Minutes of Regular Meeting dated October 5, 2011

with the following amendments:

OLD BUSINESS: RECONSIDERATION OF APPLICATION #08-2011 – GERRY WILCOX: 50 Newberry Road:

Page 3, Line #110, “evidence can be presented and the Commission ~~and they~~ can reconsider their decision.”

Page 6, Line 228: “forested wetlands includes ~~varies~~ VARIOUS species of deciduous (sp[√]) trees and native shrubs;”

Page 9, Line 402: “function; if you take a habitat and turn it into pavement you ~~loose~~ LOSE wildlife based on the....”

Page 10, Line 435: “area which drains to the detention area than ~~then~~ THE pre-and post-development.....”

AGENT DECISIONS/1) 12-2011 – East Windsor Congregation of Jehovah’s Witnesses:

Page 23, Line 1008: “install an 8’ x 12’ shed approximately 65 feet from the ~~neares4st~~ NEAREST wetlands.”

Koczera moved/Osborn seconded/VOTE: In Favor: Unanimous

PLEASE NOTE: During the October 5th Meeting the accuracy of discussion was questioned as presented in the Minutes of Meeting dated September 7, 2011 under lines 127 through 142, Page 4, Application **#08-2011: GERRY WILCOX: 50 Newberry Road.** The excerpt, and the appropriate revisions, are reflected below:

“Commissioner Koczera questioned the type of gravel to be used; he noted some people call ground up asphalt gravel. Mr. Wilcox joined the discussion. Mr. Wilcox noted he is a principal in 50 Newberry Road. Mr. Wilcox reported that at the present time the property is covered with gravel, and recycled gravel in some areas, and stone mixed with gravel in other areas. Commissioner Koczera questioned that if it was reprocessed asphalt? Mr. Wilcox suggested that recycled gravel does have some asphalt in it. Under State specifications 12 - 15% asphalt is considered allowable as a component of gravel; it is considered gravel and what he has is less than that. He estimated that over 50% of the area on his site is ¾” stone and he has mixed it with gravel to be impervious (√), so it doesn’t really harden up. Commissioner Koczera suggested that in using ground up asphalt once it’s put down it becomes like blacktop, and water doesn’t run through it. Mr. Wilcox concurred; he suggested it starts as asphalt but if it’s put in at the right time it becomes ~~a pervious~~ an impervious material; it’s not ~~impervious~~ pervious. That is not the case on his property; Mr. Wilcox indicated he has no intention of doing it that way. (√)

Chairman Savaria questioned Mr. Arsenault about imperviouness. Mr. Arsenault indicated they looked at the gravel area and considered it impervious because in the Town’s Regulations gravel is considered impervious. Mr. Arsenault noted that even though it’s pervious materials when they did the calculations for this area, as far as run off flow, they considered it as if it were pervious - a worse case scenario. (√)”

APPROVAL OF MINUTES/2) November 2, 2011:

Meeting cancelled.

EXECUTIVE SESSION/1) Pending Litigation:

MOTION: To MOVE EXECUTIVE SESSION to the end of the Meeting.

Osborn moved/Sawka seconded/VOTE: In Favor: Unanimous

Chairman Savaria wanted to thank Alan Baker for his previous work on the Commission, and to congratulate him, Dick Pippin, and Dale Nelson on their election to the Board of Selectmen. He also wished to acknowledge fellow Commissioner Slate for running a clean campaign.

NEW PUBLIC HEARINGS: None.

NEW BUSINESS: None.

NEW APPLICATIONS TO BE RECEIVED: None.

MISCELLANEOUS/1) Discussion of Regulation Changes:

Wetlands Agent Newton passed out to the Commissioners an annotated copy of the current Commission Regulations. She requested the Commission review the document and return to the January, 2012 Meeting with at least one item for discussion or possible revision.

Wetlands Agent Newton noted she has suggested a few highlighted discussion items, including:

- Revision of definition of “clear cutting”
- Deadline for submission of document revisions during an active application or hearing
- Statutory date changes required due to legislative amendments
- Timeline for advisement by applicant of Legal Notices to abutters on Public Hearings

MISCELLANEOUS/2) Discussion of Bylaws:

Commissioner Slate:

- **Section 16 – Commissioner Training: who is responsible to pay for training?**
Wetlands Agent Newton reported she is planning to hold a one session training presentation in-house for Commissioners. She and Town Planner Whitten are also considering holding a joint meeting with the Planning and Zoning Commission to familiarize new members with issues such as plan reading,

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meeting protocol, etc. The current budget provides little funding for Town payment of outside training. (See additional discussion under **CONFERENCES/SEMINARS/TRAINING** further in the Meeting).

Chairman Savaria:

- **Section 4 – Membership:** noted the bylaws reflect the reduced membership numbers. Wetlands Agent Newton reported the numbers in the bylaws now match the numbers reflected in the Ordinance splitting the Conservation Commission from the Inland Wetlands Commission. The total membership is now proposed to be 5 Regular Members and 2 Alternate Members; the Commission is currently composed of 6 Regular Members and 1 Alternate. Although the timeframe for reducing the membership numbers has not yet expired possible alternatives might be for a Regular Member to move to an Alternate position, or a denial of a future reappointment.

Chairman Savaria noted three (3) members now represent a majority for voting purposes, or establishing a quorum to hold a scheduled Meeting.

- **Section 4 – Membership Attendance:** Chairman Savaria noted the importance of consistent attendance relative to participation in application consideration or Public Hearings, especially in relation to the membership reduction. He noted that missing four meetings is equivalent to missing one quarter of the annual Commission Meetings. Current language allows the Chairman to recommend removal of a member who has been absent from three (3) or (4) successive regular meetings.

Discussion continued regarding reasons for a Commissioner's inability to attend scheduled Meetings. Commissioner Slate suggested other Commissions allow excused absences; Wetlands Agent Newton referenced the qualifying language "without good cause." The following language revisions are offered:

- Section 4.5: ".....The Chairman may recommend to the executive officer of the town the removal of any member who fails to attend three (3) successive regular meetings, or four (4) meetings in a calendar year, without good cause. Such request will be made only after a 2/3 vote of the entire Agency."
- Section 4.3: "Alternate members..... If a regular member is absent, disqualified, or recuses themselves, the Chairman of the Agency shall designate an alternate to so act,....."
- **Section 8.3 – Notice for Special Meetings:** Chairman Savaria requested clarification that the requirement for posting notice for a Special Meeting is not more than 24 hours? Wetlands Agent Newton replied affirmatively, noting the Statutory requirement is posting with the Town Clerk 24 hours in advance of the meeting.

- **Section 8.6 – Alternate Participation:** Chairman Savaria and Wetlands Agent Newton noted that an Alternate who has been chosen to replace a Regular Member who is not present at the beginning of a Meeting is NOT removed from participation if the Regular Member comes in late to the Meeting. An exception would be if a Regular Member had participated in a Public Hearing at the previous Meeting; in that case the Regular Member would replace the Alternate for the Public Hearing Application only.

It was further clarified that due to three members qualifying for a quorum under the new membership requirements if only three members were in attendance and one chose to step down during a Public Hearing then that Public Hearing could not be heard at that Meeting. At the time the recused member returns to service on the Board then other agenda items could be heard.

- **Section 12 – Ex Parte Communication:** Chairman Savaria and Wetlands Agent Newton advised the Commission that discussion of active/pending applications outside the Meeting process can not occur. Discussion with other parties outside the Meeting can become a legal issue; members found to have participated in ex parte communication will be asked to recuse themselves from the remainder of the application process.

Wetlands Agent Newton advised the Commission that should more than one Commissioner participate in a site visit it requires that the visit be posted as a public meeting, with minutes posted as with any other Commission Meeting. Wetlands Agent Newton asked Commissioners to visit sites independently with Staff.

The Commission will continue to review the bylaws for subsequent changes to be presented for the January, 2012 Meeting.

MISCELLANEOUS/3). Approval of 2012 Meeting Dates:

MOTION: To APPROVE the Inland Wetlands Commission 2012 Meeting dates as presented.

Koczera moved/Slate seconded/VOTE: In Favor: Unanimous

MISCELLANEOUS/4) Election of Officers:

MOTION: To NOMINATE Ron Savaria as Chairman, Rick Osborn as Vice Chairman, and Michael Koczera as Secretary.

Slate moved/Malin seconded/VOTE: In Favor: Unanimous

AGENT DECISIONS:

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Wetlands Agent Newton reported Application #17-2011 All American Products Corporation: Request to fill and regrade portion of cornfield at 245 South Main Street. This property is located 1,500+/- feet south of Abbe Road. Assessor's Map 12, Block 23, Lot 59 has been submitted with the request that the activity be allowed under review as an Agent Decision. The Application was submitted at 3 o'clock the afternoon of December 6th. Wetlands Agent Newton reported she reviewed the proposal and disagreed with the direction of distribution of fill, which, in some cases, will be deposited within 5' of wetlands. She also discussed the proposal with Town Engineer Norton, who, after brief review of the submitted plans, agreed with Wetlands Agent Newton's recommendation. Wetlands Agent Newton then contacted the Applicant's engineer, Tim Coon, of J. R. Russo, who cited concern with impeding the direction of drainage flow as the reason for the proposal submission.

Wetlands Agent Newton remains concerned with the proposal. She has advised Mr. Coon that the Application will be referred to Town Engineer Norton for a full review. She will sign off on an Agent Decision if she is comfortable with the ultimate resolution; otherwise the Applicant will be asked to submit a full Application for Commission review.

The request for Agent Decision has not been granted at this point.

STATUS REPORTS:

Chairman Savaria questioned the status of work on the Gabion wall at the Wal-Mart site approved as an Agent Decision at a previous Meeting. Wetlands Agent Newton noted the work is being done presently; the Applicant also improved the functions of the detention basin at the same time.

CONFERENCES/SEMINARS/TRAINING:

Chairman Savaria reported he attended the **CLEAR** Land Use Seminar, and he and Wetlands Agent Newton attended Session 3 of the DEP field training. Both seminars were informative.

The Commission discussed timing, location, and funding of training. Wetlands Agent Newton reported Session 1 of the DEP training is now available online for a cost of \$65. Session 2 is generally offered in May or June annually, while Session 3 is offered in October or November of each year. As the subject matter of the training changes from session to session the location also changes. All three (3) sessions must be completed within one calendar year to acquire a certificate.

Town funding for Commissioner training is sparse.

CORRESPONDENCE: None.

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GENERAL BOARD DISCUSSION:

Commissioner Koczera questioned if work has begun on the new Wal-Mart as he has seen people surveying along the highway? Wetlands Agent Newton reiterated there has been no official advisement within Town Hall that the new big-box construction will be a Wal-Mart, Kmart, or Lowes. She believed the people working along the highway are surveying.

PUBLIC PARTICIPATION (Discussion on non-Agenda items only):

Alan Baker, 43 Spring Street: reported he felt the Board does great work; he felt it was sometimes extremely hard work due to the application situations. He thanked Wetlands Agent Newton for her guidance during his tenure on the Board, and thanked the Board for their assistance and support.

EXECUTIVE SESSION/1) Pending Litigation:

MOTION: To GO INTO EXECUTIVE SESSION at 8:10 p.m. Attending: Chairman Savaria, Commissioners Koczera, Malin, Osborn, Roloff, Sawka, Slate; Wetlands Agent Newton; Recording Secretary Hoffman.

MOTION: To COME OUT OF EXECUTIVE SESSION at 8:35 p.m.

Chairman Savaria reported the Commission has been in Executive Session to discuss pending litigation; no action was taken.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:35 p.m.

Osborn moved/Slate seconded/VOTE: In Favor: Unanimous

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(2253)